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Openness to Foreign Investment

Kazakhstan has made significant progress toward creating a market economy since its independence in 1991. The European Union in 2000 and the U.S. Department of Commerce in March 2002 recognized the success of Kazakhstan's reforms by granting it market economy status. Kazakhstan also has attracted significant foreign investment since independence. By July 2005, foreign investors had invested a total of about \$36.8 billion in Kazakhstan, primarily in the oil and gas sector, during the country's fourteen years of independence. Following independence, the government created a favorable regime for oil and gas investments at the same time that it undertook other liberalizing economic measures and began an ambitious privatization program.

This record of market-oriented reform and successful attraction of investment has been progressively undermined over the last five years by a growing tendency on the part of the government to challenge contractual rights, to legislate preferences for domestic companies, and to create mechanisms for government intervention in foreign companies' operations, particularly procurement decisions. Together with vague and contradictory legal provisions that are often arbitrarily and inconsistently enforced, these negative tendencies feed a growing perception that Kazakhstan is becoming less open to investment.

Since 1997, there has been a growing trend to favor domestic investors over foreigners in most state contracts. Amendments passed in 1999 to the Oil and Gas Law required mining and oil companies to use local goods and services. According to "local content" regulations, subsurface users in Kazakhstan are obligated to purchase goods and services from Kazakhstan entities -- provided that the local goods meet minimum project standards -- and to give preference to the employment of local personnel. Prospective subsurface users are required to specify in their tenders the anticipated local content of their work, goods, and services. 2004 amendments to the Law on Subsurface Use also require that tender proposals specify the user's commitment to developing regional infrastructure and contributing to the provision of social services.

In January 2003 President Nazarbayev signed a new law "On Investments" that superseded and consolidated past legislation governing foreign investment. The law establishes a single investment regime for domestic and foreign investors. It guarantees the stability of existing contracts, with the qualification that new ones will be subject to amendments in domestic legislation, certain provisions of international treaties, and domestic laws dealing with "national and ecological security, health and ethics."

The new law provides for dispute settlement through negotiation, Kazakhstan's judicial process, and international arbitration. However, the law narrows the definition of investment disputes and lacks clear mechanisms for access to international arbitration. U.S. investors should note that the U.S.-Kazakhstan Bilateral Investment Treaty, as well as the New York Convention, protect U.S. investor access to international arbitration. Additionally, Kazakhstan's constitution, as well as the new law "On Investments," specifies that international agreements have precedence over domestic law. The May 2005 Law on International Agreements appears to contradict this legal hierarchy; however, the government has informally indicated that a clause which seems to subordinate international agreements to domestic legislation was passed in error and will be amended. Finally, in December 2004 Kazakhstan adopted a law "On International Commercial Arbitration" (see "Dispute Settlement" for full discussion).

The 2003 law contains investment incentives and preferences based on government-determined sectoral priorities, and provides for investment tax preferences, customs duties exemptions, and in-kind grants. The law also provides

exemptions for customs duties on imported equipment/components if Kazakhstan-produced stocks are not available or do not meet international standards.

Kazakhstan has made several amendments to the 2003 law. The amendments, which were accepted and came into force in May 2005, will eliminate five-year corporate income tax exemptions and replace them with a modified set of ten-year exemptions. Customs duties exemptions will be limited to equipment that is destined for use in production processes exclusively in Kazakhstan.

In 2001, the GOK passed transfer-pricing legislation, which gives tax and customs officials the authority to monitor export-import transactions in order to prevent the understatement of earnings through manipulation of export prices. Foreign investors are concerned that the government specifically rejected the use of OECD standards for determining a proper market price under the transfer-pricing legislation, creating instead a methodology that fails to fully account for all cost and quality differences. The government in effect holds that transfer-pricing can take place even in transactions between unrelated parties, because the practice is defined by transaction prices that differ from market prices by a certain percentage. Kazakhstan's deviation from international methodology on this complicates the ability of firms to obtain relief under treaties on avoidance of double taxation from their home countries. This remains a contentious issue with investors.

Four major pieces of existing legislation affect foreign investment. These are: 1) the 2003 law "On Investment"; 2) the 1997 law "On Government Procurement"; 3) the 2001 Tax Code; and 4) the 2003 Customs Code. These four laws provide for non-expropriation; currency convertibility; guarantees of stability in the legal regime; transparent government procurement; and incentives in certain priority sectors, including electrical infrastructure, telecommunications, light manufacturing, health and tourism. However, inconsistent implementation of these laws and reforms at all levels of government remains the key obstacle to business in Kazakhstan.

Kazakhstani law holds that no sectors of the economy are fully closed to investors, although there are some sectoral limitations, such as a 20% ceiling on foreign ownership of media outlets and 49% restriction of foreign ownership in the telecommunications sector. Plans to liberalize the telecommunications sector did not materialize in 2005. However, a December 2005 law lifted the restrictions on the participation of foreign capital in the banking sector. Finally, the 2005 Production Sharing Agreement law mandates that the state oil company be a minimum 50% participant in offshore projects.

The government plays a large role in overseeing foreign investment. Government officials, sometimes at the highest levels, screen major foreign investment proposals. Major projects, such as the Production Sharing Agreement (PSA) for Kashagan, Kazakhstan's super-giant offshore Caspian oil field, and the Karachaganak (oil and gas field) PSA, bear the President's personal imprimatur.

In 2004, the government adopted amendments to the law governing oil and gas exploration, assigning to the state a right of first refusal on the purchase of shares in PSAs in the extractive industries. The law as written applies to pre-existing as well as future contracts and thus, in the government's view, supersedes any pre-emptive rights consortium partners might have negotiated in the original contracts.

The "pre-emption law," which has its origins in the government's attempt to purchase British Gas (BG)'s stake in the Kashagan oil field, is a disturbing development in the area of contract sanctity. Although the government has not yet tested the law in practice, its apparent willingness to dispense with contractual arrangements through fiat is discouraging. In 2005, the Kazakhstani government broadened its claim of priority purchase rights to include shares of companies that have invested in the oil and gas sector.

Tax experts consider Kazakhstan's tax laws to be among the most comprehensive in the former Soviet Union. The latest Tax Code, which entered into effect on January 1, 2002, applies taxes universally and allows only a limited set of exemptions. The code applies an international model of taxation, based on the principles of equity, economic neutrality and simplicity. This code is an improvement over its predecessor and a step forward in establishing a transparent and effective tax system. VAT, as of January 2004, is set at 15%. The maximum rate of personal income tax is 20%. Also in 2004, the government introduced a regressive scale for social taxes (applied to the income of

foreign citizens seconded to companies in Kazakhstan and to payments made to individuals under certain legal arrangements), with rates ranging from 20% to 7%.

In 1996, the Treaty on the Avoidance of Double Taxation between the United States and Kazakhstan came into force. Since independence, Kazakhstan has ratified treaties on the avoidance of double taxation with 36 countries.

Foreign firms operating in Kazakhstan frequently report harassment by the Financial Police via unannounced inspections and other methods. In 1998, the government limited the number of visits that can be made by government bodies to small businesses in the course of a year, but tax inspections were excluded from this limitation. A "moratorium" on inspections of small and medium firms decreed in late 2002 has never been fully observed; it resulted in at 50% decrease in the number of audits, but, reportedly, no reduction in overall penalties assessed. The 2002 Tax Code provides a basis for improvement because it limits the powers of tax authorities and defines the rights of taxpayers more clearly.

It is important to note that in practice the application of tax laws has been uneven, and in some cases blatantly unfair. This has particularly true in cases where a company is involved in another, unrelated dispute with the authorities.

Investors should not assume that agreeing to a settlement with tax authorities following an investigation or civil case will prevent the pursuit of charges under criminal provisions. At times the authorities have used criminal charges in civil disputes as a pressure tactic.

The 2003 Investment Law provides for, inter alia, guarantees of national treatment and non-discrimination for foreign investors. In general, Kazakhstan allows investment in all sectors, with certain exceptions, such as a limitation of 20% foreign ownership of individual media companies. Kazakhstani law does not subject foreign investment to any prior authorization requirements.

Despite the general guarantee, national treatment is also denied in the petroleum and subsurface utilization (minerals) sectors. In June 2002, the Prime Minister signed a decree with regulations to implement domestic content requirements, which were originally enacted in 1999 through amendments to the Oil Law and the Subsurface Use Law. The laws require investors to contract with Kazakhstani service providers, and to purchase Kazakhstani equipment, goods and raw materials, so long as these meet the requirements for participating in government tenders. The 2002 decree required that a designated government body approve all tender documents, participate in tender committees and approve the decisions of those tender committees in order to ensure compliance with these requirements. The 2005 law on offshore PSAs also has local content requirements for goods, services and employees, and obligates prospective subsoil investors to address these requirements in their tender proposals.

These requirements are being challenged in connection with Kazakhstan's forthcoming WTO accession negotiations, as they appear to breach GATT and GATS rules and the Agreement on Trade Related Investment Measures. They also appear to contradict the 1994 U.S.-Kazakhstan Bilateral Investment Treaty, which states in Article II, paragraph 5, that "neither party shall impose performance requirements...which specify that goods be purchased locally..."

By law and in practice, foreign investors are allowed to participate in all privatization projects. There appears to be no discrimination against foreign investors after an investment is made. However, many foreign companies cite the need to protect their investments from a near-constant barrage of decrees and legislative changes, most of which do not "grandfather" existing investments. In addition to arbitrary tax inspections, foreign investors also complain of problems with closure on contracts, delays and irregular practices in licensing, land fees, etc. Some foreign firms have expressed concern that government organizations fail to live up to their side of the contract, particularly regarding payment. This often prevents the foreign partner from moving ahead with its investment program. When this occurs, the investor is exposed to government charges of non-performance and the real possibility that the government will cancel the contract.

U.S. firms can participate in government-financed research and development projects on a national-treatment basis. The Kazakhstani government has recently taken a strong interest in dedicating state resources to the support of research and development.

Foreign workers are required to have a work permit to work legally in Kazakhstan. Obtaining these work permits can be difficult and expensive. The government cites the need to boost local employment by limiting the issuance of work permits to foreigners. U.S. companies should consult legal firms for assistance (see A.5 for details) in obtaining work permits. The work permits quota system is based on the 1998 Law on Employment of the Population. Under this system, the government limits the number of work permits available to foreigners, based on the area of specialization and geographic region. Since 2001, the annual number of work permits has been subject to a government-established quota. In January 2003 the government issued a decree (no. 55) which sets forth new procedures for the annual determination of this quota. Local authorities submit estimates of the required number of foreign work permits for the upcoming year to the Ministry of Labor and Social Protection. The Ministry then establishes the quota and issues permits based upon a proven lack of qualified Kazakhstani citizens to fill the positions in question. In 2003 the government set the work-permit quota at .14% of the active labor force. The quota has steadily increased: in 2004 the quota was .21%; in 2005, 0.32%. The quota assumes an active labor force of 8 million people.

Conversion and Transfer Policies

There are minimal restrictions on converting or transferring funds associated with an investment into a freely usable currency at a legal market-clearing rate.

In 1996, Kazakhstan adopted Article 8 of the IMF Articles of Agreement, which stipulates that current account transactions, such as currency conversions or the repatriation of investment profits, will not be restricted. In 1999, the Government and National Bank of Kazakhstan announced that the national currency would be allowed to freely float at market rates, thus abolishing the previous managed exchange rate system.

There is no distinction made between residents and non-residents when opening bank accounts. There are no restrictions whereby different types of bank accounts are required for investment or import/export activities. For non-residents, money transfers in currency associated with foreign investments, whether inside or outside of the country, can take place without restriction. The National Bank permits non-residents to pay wages in foreign currency. Foreign investors may convert and repatriate tenge earnings made inside Kazakhstan.

The National Bank has established procedures and licensing arrangements to cover bank payments and transfers relating to capital movements. Inward capital flows are basically unrestricted. However, a resident company in which there is foreign investment exceeding \$100,000 must register the transaction for statistical purposes. There are restrictions on capital movements when a non-resident sells or disposes of an interest in a resident company to another resident company. These are dealt with under the licensing arrangements of the National Bank.

The procedure for licensing foreign currency transactions related to capital movements is governed by Regulations Numbers 129 and 130 of the Procedure for Licensing Activities Related to the Use of Foreign Currency of April 24, 1997.

In June 2005 the President signed the law "On Currency Regulation and Currency Control". This law lifted restrictions on money transfers: both residents and non-residents are allowed to take up to \$10,000 in cash out of the country without documentation of the money's origin. The transfer of amounts exceeding \$10,000 must be accompanied by the certification of the National Bank.

The following types of capital movements from residents to non-residents are subject to licensing:

- investments of residents in the business of non-residents abroad. (The professional activity of authorized banks on the securities market -- e.g., broker and dealer activity with state securities of non-residents -- is exempted.);

- transfers from residents to non-residents for property, including real estate, transactions;
- repayments of loans extended by residents to non-residents for a period of more than 180 days. Obtaining the license is sometimes quite slow.

The Customs Committee and the National Bank require an "Import [or] export transaction passport," ostensibly for the purpose of currency control. The document, which restates information from other documents, complicates import

and export processing, and there is a real question whether it is effective for its stated purpose - to ensure that the proceeds from export sales are returned to Kazakhstan, and to prevent fraudulent over-invoicing of imports.

The U.S. Embassy is not aware of any concerns with regards to remittance policies or availability of foreign exchange for remittance of profits. Capital inflows and commodity exports have enabled the National Bank to accumulate foreign exchange reserves, and at the same time to lower interest rates and control inflation.

As of October 2005, the net gold and hard currency reserves of the National Bank stood at \$8.7 billion; the total gold and hard currency reserves of Kazakhstan, including the National Bank reserves and reserves accumulated in the National Fund, reached \$14.5 billion.

The National Bank has pursued market-based policies that have contributed to financial sector development and to exchange rate stability. In 1999 the National Bank created a deposit insurance system in order to attract the nearly \$1 billion in cash it estimated people were hoarding at home. In the six years following the launch of deposit insurance, private deposits grew thirteen-fold, from less than \$300 million in November 1999 to \$3.93 billion in September 2005. In 2001, the government announced an amnesty for all Kazakhstani citizens repatriating cash or transferring money during a 30-day period. The legalized money was not taxed and it became available to its owners at the end of the amnesty period. Kazakhstan is repatriated \$480 million under this amnesty, of which almost 90% was brought to banks in the form of cash.

The main sources of inflows are revenues from exports of oil, gas, and metals as well as foreign direct investment. In 2004, in response to rising inflationary pressures in the economy, the Government directed the National Bank to focus monetary policy primarily on the achievement of price stability.

In October and November 2005, the National Bank adopted several rules relating to the control of currency turnover and capital flows. In particular, starting from 2006, the National Bank will regularly monitor currency operations of selected non-residents. This procedure will primarily affect the following sectors: oil and gas industry, construction, mining, as well as companies, rendering architectural, engineering and industrial design services. According to the National Bank, this monitoring will furnish the Bank with better statistical data on the balance of payments and external debt.

Expropriation and Compensation

The New Investment Law of 2003 represents a step back from the clarity of the 1994 law. The 2003 law allows nationalization by the state in cases "as provided in legislative acts of the Republic of Kazakhstan." Unlike the 1994 law, it does not provide clear grounds for expropriation. Similarly, the 1994 law required "prompt, adequate and effective" compensation at fair market value, with interest. The new law differentiates between nationalization and requisition, providing full indemnification of the investor in the case of the former, but only payment of market value in the case of the latter. Bilateral investment treaties (BITs) between Kazakhstan and other countries, including the U.S., also refer to compensation in the event of expropriation.

There has been one case of legal expropriation of a foreign investor's property for public purpose. The investor ultimately submitted the case for international arbitration. In late 2005, after lengthy delays and negotiations, the government agreed to pay the amount awarded by the arbiter.

Some foreign investors have encountered serious problems short of expropriation. In one instance, in 1996, three foreign companies were forced to relocate their offices under pressure from the government. In 1997, investors, after reviving an important mine, found they could not obtain export licenses for their ore, although the right to export was written into their contract. The same year another investor alleged forgery and fraud by government officials, claiming its employees had been physically threatened in a management dispute at its ferro-alloy venture in northern Kazakhstan.

The Embassy is aware of one case, in 1992, of government action tantamount to expropriation, when a U.S. company was deprived of its rights to explore and develop an oil deposit in Atyrau Oblast. In 1999, the Stockholm Arbitral Court found that the government's action was tantamount to

expropriation. After the U.S. Embassy raised the case with the government, it paid in full the amount of compensation called for in the arbitral award.

Under the Law on Insurance (December 18, 2000), foreign legal entities, including foreign insurance organizations and foreign citizens, are permitted to participate in insurance and re-insurance organizations in Kazakhstan. However, the total registered charter fund of general insurance companies with foreign participation may not exceed 25% of the overall registered charter fund of all general insurance companies in Kazakhstan. In the life insurance sub-sector, this limit on foreign participation is set at 50% of the overall registered charter fund of all life insurance companies operating in Kazakhstan.

Insurance supervision and licensing powers are exercised by the National Bank. After enactment of the insurance law, which granted the National Bank greater powers to supervise the insurance industry, the number of insurance companies dropped from 68 in May 2000 to 37 in May 2005. Total capital of insurance companies is \$208.3 million as of the same date. Restrictions also exist on foreign ownership of land in Kazakhstan. See below (A.6 "Right to Private Ownership and Establishment").

Dispute Settlement

There have been a number of investment disputes involving foreign companies in the past several years. While the disputes have arisen from unrelated, independent circumstances, many are linked to alleged breaches of contract or non-payment on the part of Kazakhstani state entities. Some disputes relate to differing interpretations of joint-venture agreement and production sharing agreement (PSA) contracts; one questions the legality of the government's use of ex-post facto regulations governing value added taxes. The disputes involve, in some instances, hundreds of millions of dollars.

Kazakhstan is still in the process of building the institutional capabilities of its court system. Until this is complete, the performance of courts in the country will be less than optimal. Further problems exist in enforcing judgments. The Ministry of Justice is only beginning to establish a judicial executory system. Given this lack of development, there is ample opportunity for interference in judicial cases.

General commercial law principles are established in Kazakhstan's Civil Code.

The January 2003 law "On Investments" defines an investment dispute as "a dispute ensuing from the contractual obligations between investors and state bodies in connection with investment activities of the investor." It states that such disputes can be settled by negotiation, in Kazakhstani courts, or through international arbitration. According to the law, disputes not falling within the above-noted category "shall be resolved in accordance with the laws of the Republic of Kazakhstan." While some investors find this legislation problematic since it does not address disputes between private entities, others believe that Kazakhstan's Civil Code and Civil Procedure Code provide private parties with recourse to foreign and/or third party courts.

Additionally, in December 2004, Kazakhstan adopted a law on international arbitration. The law appears to give broad authority for judicial review of arbitral awards in Kazakhstan. It remains to be seen how this law will affect the integrity of the arbitral process as applied to business in Kazakhstan. However, an early test case did not yield positive results. In 2005 a U.S. company became embroiled in a dispute over payment for the sale of its shares in a joint venture to a group of Kazakhstani companies. The London Court of International Arbitration (LCIA) issued a preliminary ruling ordering that the shares be frozen pending its final decision. The acting Kazakhstani court, however, ignored the LCIA's ruling, and proceeded with its own hearings. The case was ultimately decided by the Superior Court of Kazakhstan in the U.S. company's favor. In January 2006, however, the Astana Economic Court declined to enforce an LCIA ruling awarding legal costs to the U.S. firm on the grounds that doing so would be detrimental to "public order" in Kazakhstan.

The United States has also raised concerns about the May 2005 Law on International Agreements. On its face, the law seems to state that international agreements signed by Kazakhstan are subordinate to post-agreement domestic legislation. The government has informally indicated that the relevant clause contains an error and will be amended in 2006.

The Committee for Investments of the Ministry of Industry and Trade should be consulted before entering into any contracts with government entities, since the agencies authorized to act on behalf of the government may change. In order for a dispute to qualify as an investment dispute and therefore qualify for foreign arbitration, the state body itself must have been authorized to act or contract.

Any international arbitral award rendered by the International Center for the Settlement of Investment Disputes (ICSID), any tribunal applying the United Nations Commission on International Trade Law Arbitration rules, the Stockholm Chamber of Commerce, or the Arbitration Commission at the Kazakhstan Chamber of Commerce and Industry should, by law, be enforced in Kazakhstan. The U.S.-Kazakhstan Bilateral Investment Treaty can serve to buttress the law "On Investment" in this area. Kazakhstan ratified the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1995.

Despite such safeguards, foreign investors continue to face great practical difficulties in enforcing arbitral awards against government enterprises in Kazakhstan, particularly given the poor financial health of many such enterprises. The U.S. Government can support investors through encouraging the Government of Kazakhstan to honor arbitral awards.

Creditor rights are set forth clearly under the current law on bankruptcy. However, the 1997 bankruptcy legislation is hindered by its complexity and numerous subsequent amendments, resulting in considerable misapplication in practice.

Kazakhstan's bankruptcy agency became a self-financed government-owned enterprise in 1997.

In general, the Government of Kazakhstan has a mixed record of addressing investment disputes. Foreign investors have often had to endure protracted negotiations. Most investors prefer to handle investment disputes privately, rather than make their cases public. In addition, the law "On Investments" restricts recourse to international arbitration and places more reliance on the Kazakhstani judicial system for dispute resolution. The U.S. Embassy advocates on behalf of U.S. firms with investment disputes.

Performance Requirements/Incentives

Performance requirements, with the exception of domestic content requirements, are negotiated as part of a contract between the individual investor and the Committee for Investments, which is now part of the Ministry of Industry and Trade. They are the quid pro quo for tax, customs duty, or other privileges and benefits. Typically, an investor's obligations might include financial obligations, obligations to train local specialists, and contribute to social funds.

Performance requirements, in some cases, are central to investment or privatization contracts. Companies are frequently required to pay back wages, rebuild factories and plants, and meet certain production targets. In several instances, the government has revoked contracts because firms did not meet their performance obligations.

The Committee for Investments is responsible for monitoring the fulfillment of obligations undertaken by investors. If the committee determines that a company has not complied with its financial or other contractual obligations, the government may revoke the operating license of the company.

In order to obtain the benefits and privileges of investing in Kazakhstan, an investor is typically required to provide the agency with detailed information on technical and financial matters of the proposed project. In many instances companies consider this information confidential or proprietary.

With the exception of investments in oil production or mining, rules on local content and local sources of financing vary from contract to contract.

With the exception of the banking, media and telecommunications sectors, and new offshore oil projects, there are no legal requirements that Kazakhstani nationals own shares in foreign investments. There is no general requirement that the level of foreign equity be reduced over time. In practice, however, investors may find that a joint venture with a well-connected local partner is a prerequisite to navigating the legal and political complexities of operating in Kazakhstan. Technology transfers frequently occur and sometimes are written into contracts, but are not explicitly required for foreign investment.

The Investment Law of 2003 includes investment incentives that allow for preferences based on government-determined priority activities and provides for investment tax preferences, customs duties exemptions, and in-kind grants to legal entities of the Republic of Kazakhstan only. Under the law, the government may rescind such incentives, and collect back payments on duties, etc. including fines, if the investor fails to fulfill contractual obligations. Because the application process calls for a business plan and is, therefore, largely based on forecasting, virtually all projects are potentially subject to having their incentives removed.

The government has liberalized its trade policies and has passed legislation to begin bringing its legal and trade regimes into conformity with World Trade Organization (WTO) standards. Kazakhstan submitted its Memorandum on the Foreign Trade Regime (MFTR) in 1996 and the first round of consultations on WTO accession took place in 1997. In June 2005 Kazakhstan's WTO Accession Working Party met for the eighth time. Kazakhstan has signed bilateral protocols on market access for goods and services with several of its major trading partners. Kazakhstan also hopes to synchronize its accession with that of the Russian Federation, to the extent that this is possible.

The Eurasian Economic Community was established in 2000 as a successor to an unsuccessful customs union between Kazakhstan, Russia, Belarus, Kyrgyzstan, and Tajikistan. The EAEC was created in order to harmonize customs duties and promote free trade between the partners. The EAEC has made little progress in creating a free trade zone, as had been the case with the now defunct Customs Union.

Kazakhstan permits the importation of goods from EAEC free-trade partners and certain developing or less-developed countries free of duty or at a reduced rate within the framework of the Generalized System of Preferences.

There are very few quotas and duties on exports affecting foreign investors. Among the more important is an agreement signed with the EU concerning quotas on textiles.

There are no special requirements for engaging in trade-related activities. In keeping with internationally accepted practices, registration as an entrepreneur, legal entity, or branch/representation office is required.

There are no known cases in which U.S. or other foreign firms have been denied participation in government-financed or subsidized research and development programs on anational treatment basis.

Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises and to engage in all forms of remunerative activity. Private entities can freely buy and sell interests in business enterprises. Public enterprises sometimes enjoy better access to markets, credits, and licenses than do private entities. However, this is changing as Kazakhstan has privatized a large part of its economy.

Kazakhstan's constitution provides that land and other natural resources may be owned or leased by persons who are Kazakhstani citizens according to conditions established by law. The 2003 Land Code allows citizens of Kazakhstan to own agricultural land and urban land with commercial and non-commercial buildings and complexes, including dwellings and land used for servicing these buildings. Under the 2003 Land Code, only Kazakhstani citizens (natural and legalized) and Kazakhstani companies may own land. The Land Law does not allow private ownership for the following types of land:

- land used for national defense purposes;
- specially protected natural territories, resorts; recreational land and territories of a historical and/or cultural significance;
- forests, water reservoirs (lakes, rivers, canals etc.); glaciers, swamps, etc.;
- public areas (urban or rural settlements);
- lands that belong to the state land reserve.

The law permits only state-owned entities to permanently use land. Short-term land leases may last for up to five years. The maximum period for long-term land leases are 49 years. Foreigners may rent agricultural land for up to 10 years. Foreigners may also own agricultural land through a Kazakhstan-registered joint venture or a full subsidiary.

Protection of Property Rights

Secured interests in property (fixed and non-fixed) are recognized under the Civil Code and the 2003 Land Code. Mortgage lending is still a relatively new phenomenon in Kazakhstan but it is a rapidly growing sphere of financial activity. The development of credit risk assessment tools for banks, including credit bureaus, will help mitigate the risks inherent in mortgage banking. The National Bank has created a national mortgage agency, which issues bonds secured by mortgages purchased from banks. All property and lease rights for real estate must be registered with special government-owned Real Estate Centers, which exist in cities and rural district centers.

In principle, Kazakhstan's Civil Code protects U.S. intellectual property. In addition, the U.S.-Kazakhstan Trade Agreement, which came into force in 1993, obliges Kazakhstan to protect intellectual property rights (IPR.). In the last two years Kazakhstan has taken positive legislative steps to improve its IPR regime. In 2004, Kazakhstan ratified the 1997 World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performances and Phonographs Treaty, and amended the Copyright Law to affirmatively protect pre-existing works and sound recordings. In 2005, Kazakhstan amended its Criminal and Civil Codes to make IPR crimes easier to prosecute and to toughen penalties for violators. While the legislative environment has improved, only time will tell whether the legislation will translate into stronger enforcement.

Patents and trademarks: Patent protection is available for inventions, industrial designs and prototypes. Patents for inventions are available with respect to processes and products that are novel and have industrial applications. However, patent protection for certain types of products and processes -- such as layout designs and plant variety -- is not yet available. A National Patent Office, established in 1992, performs formal examination of patent applications. Existing Soviet patents are being converted to Kazakhstani patents.

Patents for inventions are granted for a period of 20 years; patents for industrial designs are granted on a preliminary basis for five years. This period may be extended for an additional 10 years if the preliminary patent is converted to a patent. Prototypes are granted a five-year initial period of protection, with the possibility of an additional three-year extension. Unsuccessful applicants have the right to appeal decisions of the National Patent Office.

Trademark violation is a crime. Enforcement has historically been questionable, but in 2004 US companies were generally confident that their trademarks were protected in Kazakhstan. There are marked disparities in fees charged to domestic patent and trademark applicants, as compared to foreign applicants. Applications for trademark, service mark and appellations of origin protection may also be filed with the National Patent Office. Trademarks and service marks are afforded protection for a period of 10 years from the date of filing. In 2004 the Embassy received anecdotal evidence from US companies that the situation with respect to trademarks is improving.

Copyrights: The Law on Copyrights and Related Rights was enacted in 1996. The law is largely in conformity with the requirements of the WTO TRIPS Agreement and the Berne Convention.

In 2000, the government amended the Customs Code to provide ex-officio authority to Customs Committee officials to seize contraband at the border, as required by the WTO TRIPS Agreement. Moreover, amendments to the Administrative, Criminal and Civil Procedural Codes have been adopted to bolster enforcement capabilities. Nevertheless, systematic violations persist and enforcement remains sporadic. According to the IPR Agency, 1475 IPR cases were identified in the first 10 months of 2005. Criminal proceedings were initiated in 1358 of them, including 1098 cases of copyright violation and 260 cases of trademark violation. By November 1, 2005, 1169 cases had been heard in court.

As a result, 206,111 counterfeit items, estimated in value at KZT 60.558 million, had been withdrawn from the market, and fines totaling KZT 8.11 million (about \$60.3 thousand) had been imposed.

Illegal software development and manufacture generally is not conducted in Kazakhstan; Russia and Ukraine are believed to be the major sources of bootleg software to the local market.

Kazakhstan ratified the Berne Convention for the Protection of Literary and Artistic Works in 1998 and the Geneva Phonograms Convention in 2000.

Piracy of copyrighted products is widespread and there have been only limited enforcement measures to date. Although Kazakhstan enacted a number of laws and changed many policies during the last few years, a number of additional changes are still required. Bilateral negotiations must be concluded in order to comply with WTO standards. Since 2000, USTR's Special 301 review has put Kazakhstan on the Watch List for intellectual property rights violations, primarily for the country's lack of enforcement of copyrights.

Transparency of the Regulatory System

Transparency in the application of laws remains a major problem in Kazakhstan and an obstacle to expanded trade and investment. Foreign investors complain of changing standards and corruption. While foreign participation is generally welcomed, some foreign investors point out that the government is not always even-handed and sometimes reneges on its commitments. Although the Committee for Investments of the Ministry of Industry and Trade was established to facilitate foreign investment, it has had limited success in addressing the concerns of foreign investors.

Often, contradictory norms hinder the functioning of the legal system. While Kazakhstan has recently defined more clearly which laws take precedence in the event of a contradiction, it has become clear that stability clauses granted investors under previous versions of the Foreign Investment Law or other legislation may not necessarily protect investors from changes in the legal and tax regulatory regime. The 2003 law "On Investments" holds that contracts signed subsequent to its enactment may be subject to amendments in domestic legislation and international treaty provisions that change "the procedure and conditions of the import, manufacture, and sale of goods subject to excise duties." As an additional complication, oblasts often take a very liberal view of national laws and policies (especially licensing and permitting), implementing their own regulations and thereby increasing instances of conflict with the law. Kazakhstan, by law, will provide compensation for violations of contracts that were properly entered into and guaranteed by the government. Where the government has merely "approved" or "confirmed" a foreign contract, Kazakhstan's responsibility is limited to performing administrative acts necessary to facilitate the subject investment activity (acts "concerning the issuance of a license, granting of a land plot, mining allotment, etc.").

Kazakhstan's institutional governance is weak, further adding to the problems of transparency in commercial transactions. Senior government officials have a large say in minor and major transactions, and decisions are often made behind closed doors.

A 1995 Licensing Law established the legal framework for licensing activities in Kazakhstan. It requires the relevant agency to issue a license within one month of a company's submitting all required documents. Unfortunately, the implementation of this law has been inadequate. For example, the government has not yet approved most of the qualification and procedural requirements for issuing licenses. This situation has left some businesses vulnerable to inspection bodies, which have threatened them with fines and shutdowns for not having licenses that are, in many instances, impossible to legally obtain. In 1998, several additional procedural acts were adopted to implement the requirements of the Licensing Law. However, many areas still lack implementing legislation. The number of licenses required for most activities is also an obstacle to business.

Nevertheless, the Government intends to streamline the licensing rules. In particular, the amendments to the Licensing Law were passed in the first half of 2005. The new law excluded a wide variety of business activity from licensing requirements, including aircraft repair, airport services, sale of topographic and geodesic maps, excursion and tourist business, and legal services (except advocacy). There are some transparency problems connected with the customs regime in Kazakhstan. These include the following:

--Granting customs exemptions stipulated in the Law on Foreign Investment continues to be problematic, because the Customs Committee has failed to issue any regulations or instructions for its implementation. Instead, Customs decides claims in an ad hoc manner, which has resulted in inconsistent and unclear application of the law.

--Kazakhstan has adopted the international tariff nomenclature as the basis of its Tariff Schedule and has prepared a tariff schedule, but it has not been published in full. As a result, regional customs offices continue to use the old tariff schedules. According to businesses, this leads to unnecessary delays in processing and increased costs for importers.

In December 2004 the formerly independent Customs Agency was subordinated to the Ministry of Finance, where it was re-established as the Customs Control Committee.

Efficient Capital Markets and Portfolio Investment

Kazakhstan's efforts to create a sound financial system and a stable macroeconomic framework have been notable among former Soviet republics. Much progress has been made in creating and implementing an adequate legal framework. By comparison with other parts of the economy, reform of the financial system has been deeper and more effective. The financial system has started to mediate financial resource flows and direct them to the most promising parts of the economy. Official policy is clearly supportive of credit allocation on market terms and the further development of legal, regulatory and accounting systems that are consistent with international norms.

Most domestic borrowers receive credit from Kazakhstani banks. However, foreign investors find the margins taken by local banks and the security required for credit to be very onerous. It is usually cheaper and simpler for them to use retained earnings or borrow from their home country. Kazakhstan's stock exchange is tiny and, as such, not yet a realistic source of funds (see below). Kazakhstani banks have, since 1998, placed Eurobonds on international markets and obtained syndicated loans, the proceeds of which have been used to support domestic lending. Leading Kazakhstani banks have been able to obtain reasonably good ratings from international credit assessment agencies. All Kazakhstani banks are to meet Basel I risk-weighted capital standards by 2007. The National Bank supervises the banking system and has overseen a steady consolidation and strengthening of the system. In 2005 the National Bank raised the reserve requirements for second-tier banks, in part to control the growth of monetary aggregates but also to apply discipline during the current "credit boom". The National Bank further changed the method banks use to calculate reserves by requiring them to count foreign liabilities as well as domestic.

With the implementation of deposit insurance in 1999, private deposits in the banking system grew from less than \$300 million in November 1999 to \$3.93 billion at the end of September 2005.

Since 1999, a market for debt securities has been rapidly developing in Kazakhstan. Several dozen bank and non-bank corporations - large and small - have issued bills, notes and bonds with maturities ranging from three months to seven years. Earlier issues have matured and been redeemed and, so far, there have been no defaults. Rates for borrowers have declined on average from approximately 16% in September 1999 to approximately 10% in 2005. Maturities have increased from 1.5 years to up to 10 years during the same period. Kazakhstan's pension system reform has boosted the bond market by creating a pool of capital; in September 2005 private pension funds managed over \$4.4 billion. The government intends to privatize the one remaining state pension fund. In November 2005, this fund, the Ministry of Finance and EBRD signed the protocol of intention on the sale of 10% of the fund's stake to EBRD. The market for fixed-income securities has grown from \$74,000 in September 1999 to over \$2.3 billion in September 2005.

In September 2005, the rate on short-term government notes was 2.94%. Longer-term government notes (with maturities up to 10 years) were offered at 6.08%.

The Kazakhstan Stock Exchange (KASE) has been in operation since 1997. As of November 2005, there were 93 listed companies with 31 "A-listed" stock issues; 28 companies with "B-listed" stock issues; and eight non-listed issuers. There are also 44 "A-listed" and six "B-listed" corporate bond issues. Inadequate financial records prevent many other companies from being put on the exchange. Moreover, company managers fear diluting control of their enterprises by selling more shares.

The National Securities Commission has been operating since 1996 in compliance with the norms of the International Organization of Securities Commissioners. In 2001, the Commission was made a department of the National Bank, and renamed the "Securities Market Regulation Department. In

2003, functions of this Department were given to a newly-created Financial Supervision Agency (FSA). The FSA has broad authority over the banking insurance sectors, as well as the stock market. The FSA is financed from the National Bank's budget and subordinated to the President of the RK.

Resident Kazakhstani companies must compete for capital with the attractive (and tax deductible) returns offered by government debt, although these interest rates have been steadily decreasing.

In 1998, the government introduced an accumulation pension system that requires all employed persons to contribute 10% of their salary to accumulation pension funds. As of September 2005, the 14 private (and one state) funds operating in Kazakhstan held approximately \$4.4 billion in assets. Asset management companies invest the contributions on behalf of the pension funds. The pension assets must be invested only in specific categories of instruments, such as government bonds and A-listed securities. The largest concentration of investments is in dollar-denominated Kazakhstani Eurobonds. Custodian banks hold pension assets. The government plans to sell some shares of state enterprises on the national stock market, partly to provide a more profitable alternative vehicle for the investment of pension fund assets.

There appear to be no "cross-shareholding" or "stable shareholder" arrangements used to restrict foreign investment in private firms through mergers and acquisitions. Joint stock companies may not cross-hold more than 25% of each other's stock unless they have an exemption codified by law and may not exercise more than 25% of the votes in a cross-held joint stock company. Kazakhstani law recognizes companies as "related" if one company or legal entity holds more than 20% of the shares of another. However, the owning company may not vote more than 25% of the total shares at the general meeting of shareholders of the related company. The general meeting must approve various corporate actions, such as mergers and acquisitions. This rule applies to all persons, domestic or foreign.

There have been very few hostile takeovers in Kazakhstan, primarily because there are few publicly traded firms. Defensive measures are not targeted toward foreign investors in particular. Current legislation provides a legal framework for takeovers. The Civil Code requires a company that has purchased a 20% share in another company to publish information about the purchase.

Kazakhstan has a well-developed infrastructure for equity and debt trading with a network of brokerage firms. This is a resource for future corporate finance. However, at present, the dearth of attractive stocks for trading is a significant obstacle to the further development of the securities market. This is another weakness that the government's plan for offering shares in state enterprises is meant to address.

The 1998 Law on Joint Stock Companies provides the basis for regulation of open and closed-type joint stock companies. It also contains clauses to protect investors in often-abused circumstances, such as:

- issuance of additional shares
- maintenance of charter capital and restrictions on payments of dividends
- re-purchase by a company of its own shares
- debt-to-equity conversions
- fiduciary duties imposed on company officers
- proxy votes
- independent audit
- determination of asset values during the sale of company property.

The Law on Joint Stock Companies also regulates tender offers for stock of open joint stock companies by requiring the purchaser to notify the Securities Market Regulation Department and the target company of their intention to purchase 30% or more of the target company and, after such purchase, to make an offer to all remaining shareholders to purchase their shares at the average price during the last six months before the purchase.

There are no laws or regulations specifically authorizing firms to adopt articles of incorporation or associations that limit or prohibit foreign investments. The Law on Joint Stock Companies, however, allows charter limits on

the number of shares or votes that one shareholder may have.

Standards, including sanitary and phyto-sanitary standards, are promulgated solely by the Committee for Technical Regulation and Metrology (Gosstandard). Proposals for adoption, amendment, or abolishment of state standards are normally prepared by technical committees constituted by Gosstandard, and may include producers, scientific and engineering associations, and technical experts. Foreign participation in the standardization process is regulated by international multilateral and bilateral agreements.

Political Violence -----

There have been no incidents of politically-motivated violence against foreign investment projects. Kazakhstan has been stable since independence. Politically-motivated civil disturbances remain exceptionally rare. Kazakhstan has good relations with its neighbors. The government continues to express concern over the security of its borders with Kyrgyzstan and Uzbekistan, which it view as vulnerable to penetration by extremist groups.

Kazakhstan's 2005 presidential elections took place without significant violence or unrest. President Nazarbayev was reelected with an overwhelming majority of the votes. In its preliminary assessment the OSCE noted that the presidential election did not meet a number of OSCE commitments and international standards for democratic elections. Although some opposition groups denounced the election as fraudulent, there have been no significant demonstrations against the announced results. The next parliamentary election is scheduled to take place in 2009.

Kazakhstan's economy has grown steadily in the last four years. 2005 GDP growth is estimated at 9%, and the highest year-on-year rate was 13.5% in 2001. Although incomes and consumer spending have risen across the board, the minimum subsistence wage is still only \$46.53 per month, and 18.8% of the population receives income below that level. Starting on July 1, 2006, the minimum pension payment will be \$ 68.1 per month. By government estimates, unemployment has remained near 8% since 2002.

Corruption -----

Although the Kazakhstani Criminal Code contains special penalties for accepting and giving bribes, corruption is widely perceived to be prevalent throughout Kazakhstan. The Ministry of Interior, the Financial Police and the Committee for National Security (KNB) are responsible for combating corruption. The latest national commission to fight government corruption - the Disciplinary State Service Commission - was established in June 2003.

U.S. firms have cited corruption as a significant obstacle to investment. Law enforcement agencies have on occasion brought pressure on foreign investors perceived to be uncooperative with the government. The government and local business entities are widely aware of the legal restrictions placed on U.S. business abroad (i.e., the Foreign Corrupt Practices Act).

In 2002, a former Minister, a Minister, and a former Oblast Akim were separately indicted on corruption charges. The timing of two of these cases appears to have been politically motivated, as they were co-leaders of a major new opposition political movement started only months before. Two were convicted and sentenced to lengthy jail terms, though one was pardoned and released in May 2003.

The third case also resulted in a conviction, though the by-then former minister was given a suspended sentence.

In 2003 in the United States two American citizens were charged with violating the Foreign Corrupt Practices Act in a case that received significant international media attention. The two allegedly channeled tens of millions of dollars in bribes to two senior Kazakhstani officials during the 1990's in order to facilitate oil deals for American companies. One is currently serving a jail term; the trial of the second, James Giffen, is scheduled to begin in 2006 in the Federal District court in the Southern District for New York.

Bilateral Investment Agreements and Double Tax Treaties -----

The United States-Kazakhstan Bilateral Investment Treaty came into force in 1994. In 1992, the United States and Kazakhstan signed an Investment Incentive Agreement. In 1996, the United States and Kazakhstan ratified the Treaty on Avoidance of Dual Taxation.

Kazakhstan has bilateral investment agreements in force with over three dozen countries, including the United States, Great Britain, Germany, France, Russia, Korea, Iran, China, and Turkey. Kazakhstan also has ratified 36 treaties on avoidance of dual taxation.

OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC), an independent U.S. Government agency that provides project financing, political risk insurance, and a variety of investor services, has been active in Kazakhstan since 1994. OPIC is seeking commercially viable projects in the Kazakhstani private sector. OPIC offers a full range of investment insurance and debt/equity stakes. Kazakhstan is a member of the Multilateral Investment Guarantee Agency (MIGA).

Labor

Kazakhstan has an educated and technically competent workforce. The demand for specialized skilled labor created by the simultaneous development of several major oil fields in western Kazakhstan has exceeded locally available supply. Management expertise and marketing skills are also in short supply. U.S. firms employ Kazakhstani specialists across a broad spectrum of industries, although additional training to qualify specialists is often necessary.

The 1999 Labor Law and the Constitution guarantee basic workers' rights, including the right to organize and the right to strike. Teachers, miners and workers at a variety of enterprises have conducted occasional strikes for generally short periods during the past several years. The 1993 Law on Professional Labor Unions provides a legal guarantee against limitations of labor. It also grants social-economic, political and personal rights and freedoms as a result of membership in a union and prohibits the denial of employment, the denial of promotion or the release from employment on the basis of such membership. Kazakhstan joined the International Labor Organization (ILO) in 1993. As of January 2006, Kazakhstan has ratified 16 ILO conventions, including those pertaining to minimum employment age, forced labor, discrimination in employment, equal remuneration, and collective bargaining.

The 1996 Law on Labor Disputes and Strikes lays out the procedure for resolving disputes. However, the law also restricts strikes by requiring that a peaceful attempt at a solution first be made, that two-thirds of the labor collective must approve the strike, and that the employer must be warned 15 days in advance in writing, among other restrictions. In addition, strikes for political purposes are forbidden.

A separate 1992 Law on Collective Bargaining Agreements sets out the basic framework for concluding such agreements. There are instances of unions successfully negotiating collective bargaining agreements with management.

The Government of Kazakhstan has made it a priority to ensure that Kazakhstani citizens are well-represented on foreign enterprise workforces, and is particularly keen to see Kazakhstanis hired into the managerial and executive ranks of those enterprises. Changes in 2001 to the quota system for foreign labor work permits has increased pressure on employers to hire local labor through the introduction of requirements to search for local workers prior to the issuance of work permits for foreign labor (see section A.1.). All U.S. companies are strongly advised to contact locally-based law and accounting firms, as well as the U.S. Commercial Service in Almaty, for the latest information on work permits.

Foreign Trade Zones/Free Ports

The government established special economic zones in the capital city of Astana (as of July 2001) and on the territory of the seaport of Aktau (as of April 2002). Under the law, the Astana Special Economic Zone must be abolished no later than five years after its foundation, while the Aktau Special Economic Zone must be closed by January 2007. In the special economic zones, foreign companies have the same privileges as Kazakhstani entities. A third Special Economic Zone has been established near the city of Shymkent as an incubator for the cotton textile industry. The Shymkent zone is an example of the Government's "cluster" strategy, whereby the state is attempting to create new industrial sectors where it has identified the potential for the growth of competitive firms. In addition to the cotton textile industry, there are plans to build

clusters in the petrochemical, oil machinery, food processing, tourism, transport and metallurgical sectors.

As a part of Kazakhstan's national strategy to diversify the economy, the government has begun to establish "technoparks" where investors, including foreigners, can take advantage of incentives to develop trade-intensive high-tech industries.

Foreign Direct Investment (FDI) Statistics

Annual Gross Foreign Direct Investment Flows by Country of Origin (Millions of Dollars; nominal)

	1993-2003	2004	2005(Jan-Sept)	Total
USA	7738.5	2970.6	759.5	11 468.6
UK	3516.6	924.6	179.6	4261.6
South Korea	1750.8	72.5	40.5	1863.8
Italy	1848.7	313.0	213.4	2375.1
Canada	1065.2	169	224.0	1458.2
Switzerland	1682.5	235.6	76.6	1994.7
Netherlands	1622.7	1782.2	1070.6	4475.5
China	1076.6	397.7	103.6	1577.9
Turkey	742.1	92.1	68.3	902.5
Russia	787	200.6	158.2	1145.8
Japan	491.6	178.5	238.7	908.8
Others	3527.3	956.6	1495.9	5979.8
Total	25,849.6	8,293.0	4,269.7	38 412.3

Source: National Bank of Kazakhstan

Annual Gross Foreign Direct Investment Flows by Sector (Millions of dollars; nominal)

	1993-2003	2004	2005(Jan-Sept)	Total
AGRICULTURE, HUNTING AND FORESTRY	16.5	-2.0	0.7	15.2
MINING AND QUARRYING	15241.8	5268.4	1237.5	21747.7
mining of coal and lignite, extraction of peat	33.6	9.7	2.4	45.7
extraction of crude petroleum and natural gas	13546.8	5200.5	1150.0	19897.3
mining of uranium and thorium ores	43.3	34.8	47.9	126
mining of metal ores	1570.8	13.5	42.9	1627.7
other mining and quarrying	47	9.9	-5.8	51.1
MANUFACTURING	4242.2	519.1	202.1	4963.4
including but not limited manufacture of food products, beverage and tobacco products	607.2	36.4	45.8	689.4
manufacture of coke, refined petroleum products and nuclear fuel	438.9	20.4	34.1	493.4
manufacture of chemicals and chemical products	115.5	25.2	-3.8	136.9
manufacture of rubber and plastics products	14.2	9.1	6.7	30.0
manufacture of other non-metallic mineral products	63.8	11.2	9.5	84.5

manufacture of basic metals:	2622.3	323.8	71.5	3017.6
manufactures of ferrous metals	401.8	0.7	2.7	405.2
manufacture of basic precious and non-ferrous metals	2212.9	319.8	67.6	2600.3
manufacture of fabricated metal products except machinery and equipment	7.9	3.3	1.2	12.4
manufacture of machinery and equipment	15.7	7.5	-5.1	18.1
manufacture of electric and computing machinery	316	71.4	37.3	424.7
manufacture of transport equipment	4.4	1.1	2.7	8.2
manufacture, n.e.c	4.1	1.8	-1.1	4.8
ELECTRICITY, GAS AND WATER SUPPLY	568.1	11.4	116.7	696.2
CONSTRUCTION	161.8	159.9	87.6	409.3
WHOLESALE AND RETAIL TRADE, REPAIR OF MOTOR VEHICLES, MOTORCYCLES AND PERSONAL AND HOUSEHOLD GOODS	482.3	271.8	251.4	1005.5
HOTELS AND RESTAURANTS	96.1	13.4	3.3	112.8
TRANSPORT, STORAGE AND COMMUNICATION	491.4	83.2	89.6	664.2
land transport	324.2	29.4	19.8	373.4
including transport via pipelines	319.8	28.8	20.0	368.6
water transport	14.2	-26.4	0.0	-12.2
air transport	21.7	0.5	2.4	24.6
supporting transport activities	65.1	15.7	44.5	125.3
post and telecommunication	66.4	63.9	22.9	153.2
including telecommunication	65.5	63.5	22.6	151.6
FINANCIAL ACTIVITY	315.3	71.0	52.8	439.1
REAL ESTATE, RENTING AND BUSINESS ACTIVITIES	3731.8	1806.1	2184.5	7722.4
Including but not limited real estate activities	82.6	11.6	4.3	98.5
other business activities:	3642.7	1788.5	2167.4	7598.6
Including legal, accounting, book-keeping and	64.4	51.5	1.2	117.1

auditing activities, tax consultancy, market research, business and management consultancy				
geological exploration and prospecting activities	3458.4	1717.6	2113.5	7289.5
EDUCATION, HEALTH AND SOCIAL WORK	141.7	90.8	43.5	276
ACTIVITIES, N.E.C.	360.8	0.0	0.0	360.8
TOTAL	25,849.8	8,293.1	4269.7	38 412.6

Source: National Bank of Kazakhstan

	2003	2004	2005
FDI as a Percentage of GDP	15.2%	20.3%	12%

Source: National Bank of Kazakhstan

Largest Investments as of 2005:

1. TengizChevrOil (TCO). The TCO joint venture (50% owned by Chevron, 25% by ExxonMobil, 20% by the Government of Kazakhstan, and 5% by LucArco), launched in 1993, was the first major international oil project in post-independence Kazakhstan. Through 2004 the joint venture partners invested more than \$7 billion in TCO. In 2005 TCO is expected to produce 280,000 bpd. By 2007, TCO will complete a three-year expansion project, which will increase production to an estimated 570,000 bpd. TCO member companies are also major shareholders in the Caspian Pipeline Consortium (CPC), a \$2.5 billion project which began transporting Tengiz crude to the Black Sea port of Novorossiysk in 2001. Negotiations among CPC shareholders to more than double CPC pipeline capacity continued through 2005.

2. AGIP Kazakhstan North Caspian Operating Company. Formed in 1997 to develop the super-giant offshore Kashagan field in the North Caspian, this consortium has undergone numerous partner changes. Current members include Agip-ENI, ExxonMobil Shell, Inpex, ConocoPhillips, Total, and KazMunayGaz. Estimated reserves of extractable oil stand at 7-9 billion barrels. First Kashagan oil is likely to be exported via the BTC pipeline, and IGA and HGA negotiations are ongoing to facilitate movement of Kazakhstani oil along that route. Under terms of the initial PSA, Agip KCO was to start commercial production in 2005, but that date has been moved back to at least 2008. Project partners planned to invest \$3.5 billion in Kashagan in 2005 alone.

3. Karachaganak Consortium. Chevron, British Gas, Agip, and Lukoil signed a PSA in 1997 to develop the Karachaganak oil and gas condensate field, estimated to hold 2.3-6 billion barrels of oil / gas condensate and 16-46 Tcf of natural gas reserves. In 2003 Western partners completed a 400 mile pipeline to connect the field to the CPC pipeline in Atyrau. A "Phase Two" expansion project was completed in 2004, in which an estimated \$4.3 billion was invested to construct a new gas and liquids processing facilities, gas re-injection facilities, and a 120-megawatt power station. According to a 40-year agreement, the company will invest \$10 million annually in local social projects.

4. PetroKazakhstan (PK). Until its sale in October 2005 to a subsidiary of Chinese National Petroleum Corporation (CNPC), PK ran one of Kazakhstan's three major oil processing plants, the Shymkent refinery, which meets about 50% of the domestic demand for refined products. PK also operated the Kumkol deposits in southern Kazakhstan. According to an agreement between the GOK and CNPC International, the GOK will purchase 50% of the Shymkent refinery and one-third of additional PK assets. In 2004 PK's capital investments reached \$82 million, and were planned at \$40 for 2005. In addition to the former PK assets, in 1997 CNPC bought 60.2% of state-owned Aktobemunaygaz, and in 2003 CNPC purchased a further 25.12% stake for \$150 million. By 2004 the company's investments were over \$1 billion. In addition, CNPC, together with national oil company KazMunayGaz, is constructing an oil pipeline to China. The second, \$700 million stage was completed in December 2005.

5. Nelson Resources (Canada). In 2000 the company purchased a 50% interest in Kazakhoil Aktobe, in partnership with KazMunayGaz. In 2004 production reached 20,000 bpd and is projected to increase three-fold by 2007.

In 2004 Nelson invested about \$140 million in the project. Since 2004 Nelson Resources has developed North Buzachi field on a parity basis with CNPC. In 2004 the company produced 10,000 bpd. In 2005 \$125 million was invested into the project. In late 2005 Russian Lukoil purchased 100% of Nelson Resources.

16. Nations Energy (Canada). In 1997 the company bought a 94.64% stake in the Karazhanbasmunay state oil company for \$45 million. The company produces about 50,000 bpd. By 2005 the company had invested about \$250 million into the project, targeting planned production at 80-90,000 bpd over the next two years.

17. AES Kazakhstan and AES Ekibastuz. In 1996, the American energy company AES bought the Ekibastuz-1 power plant. In the fall of 1997, AES purchased two hydroelectric power generation plants and several other coal-fired power/heating plants in and around Ust-Kamenogorsk, in eastern Kazakhstan. In 1999, AES gained management control of two regional electric distribution companies (REC) in Kazakhstan for 15 years. Since 1996, AES has invested over \$220 million. In 2005-2008 the company plans to invest \$300-500 million in Kazakhstan's economy.

18. Bogatyr Access Komir. In 1996, the American firm Access Industries bought the Bogatyr coal mine and 66% of the neighboring Stepnoy coal mine (both part of the giant Ekibastuz mining complex) for more than \$40 million. Access pledged to invest \$550 million toward upgrading the coalmines over the next five years. Access Industries continues its investment program at the Ekibastuz mining complex. Nearly 36 million tons of coal were delivered from the Bogatyr mine in 2004. About \$18-million investments into production are planned in 2005.

Other major investments in the past several years have included:

Philip Morris-Kazakhstan. Philip Morris signed an agreement with the Almaty Tobacco Company in 1993, under which it pledged to invest USD 350 million through 1998. Philip Morris has been producing cigarettes in Kazakhstan for domestic consumption since 1994. In spring 2000, it completed its USD 200 million Greenfield cigarette manufacturing plant in the Almaty Oblast. The plant is slated to produce over 25 billion cigarettes annually.

Trans World Metals. A UK-registered company, which in 1995 purchased Kazakhstan's chromium plant and associated mine. Trans World paid USD 65 million for the facilities and pledged to invest a further USD 400 million. In 2000, after two years of legal battle in Kazakhstani and foreign courts with local company Kazakhstan Mineral Resources Corp (KMRC) over rights to its chromium operation and rights to other properties in Kazakhstan, Trans World Metals left the country and dropped its court cases against the KMRC for a reported USD 200-USD 250 million settlement.

The LNM Group (UK), in 1995, purchased the Karaganda metallurgical plant (KARMET), which was subsequently renamed to Ispat-Karmet. The LNM Group paid USD 225 million and invested a further USD 450 million by 2000. The new owner significantly improved the plant's product quality and packaging and now exports 95% of Ispat-Karmet's output to over 60 countries. In late 2004 LNM's Kazakhstani steel operation was renamed "Mittal Steel Temirtau".

ASQUINO